

Senate Study Bill 1112 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON LABOR AND BUSINESS
RELATIONS BILL BY
CHAIRPERSON SCHULTZ)

A BILL FOR

1 An Act relating to professional licensing by limiting the
2 authority of cities and counties to enact or enforce certain
3 professional or occupational licensing laws, relating
4 to qualifications for holding professional licenses, and
5 including applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 272C.1, Code 2019, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 5A. "*Licensing authority*" means a licensing
4 board or another body established to issue licenses to a
5 person practicing a profession or occupation by a political
6 subdivision.

7 NEW SUBSECTION. 10. "*Political subdivision*" means a city
8 or county in this state.

9 NEW SUBSECTION. 11. "*Professional or occupational fee*"
10 means a fee imposed on a person as a condition of practicing a
11 profession or occupation.

12 Sec. 2. NEW SECTION. 272C.12 **Licensing requirements of**
13 **political subdivisions limited.**

14 A political subdivision shall not impose a new professional
15 or occupational fee or licensing requirement on or after
16 January 1, 2020, on a profession or occupation that is not
17 subject to such a fee or licensing requirement as of that
18 date, but the political subdivision may continue to impose a
19 professional or occupational fee or licensing requirement in
20 place prior to January 1, 2020.

21 Sec. 3. NEW SECTION. 272C.13 **Disqualifications for criminal**
22 **convictions limited.**

23 1. A licensing authority that may deny a professional or
24 occupational license on the basis of an applicant's criminal
25 record shall list the specific criminal offenses that could
26 disqualify an applicant from receiving a license. Any
27 such offenses shall be directly related to the duties and
28 responsibilities of the profession or occupation.

29 2. A licensing authority shall not deny an application for a
30 license on the basis of an arrest not followed by a conviction
31 or based on a finding that an applicant lacks good character,
32 suffers from moral turpitude, or on other similar bases.

33 3. A valid disqualification as described in subsection 1
34 shall not persist past five years after the date of conviction,
35 provided that the crime is not violent or sexual in nature and

1 the applicant has not been convicted of another crime listed by
2 the licensing authority as described in subsection 1 within the
3 period of disqualification. Such a person may be disqualified
4 for no more than five years following the person's release from
5 incarceration.

6 4. A licensing authority shall consider clear and
7 convincing evidence of all of the following factors in
8 determining whether an applicant's disqualifying criminal
9 record is directly related to the duties and responsibilities
10 of the profession or occupation:

11 a. The nature and seriousness of the crime for which the
12 individual was convicted.

13 b. The amount of time that has passed since the commission
14 of the crime.

15 c. The relationship of the crime to the ability, capacity,
16 and fitness required to perform the duties and discharge the
17 responsibilities of the profession or occupation.

18 d. Any evidence of rehabilitation or treatment undertaken
19 by the individual that might mitigate against a finding that a
20 disqualifying criminal record directly relates to the duties
21 and responsibilities of the profession or occupation.

22 5. An individual may petition a licensing authority, in a
23 form prescribed by the licensing authority, for a determination
24 as to whether the individual's criminal record will prevent the
25 individual from receiving a license. The licensing authority
26 shall issue such determinations within thirty days of receipt.
27 The licensing authority may charge a fee to recoup the costs of
28 such a determination, provided that such a fee shall not exceed
29 twenty-five dollars.

30 6. a. A licensing authority that denies an individual a
31 license solely or partly because of the individual's prior
32 conviction of a crime shall notify the individual in writing
33 of all of the following:

34 (1) The grounds for the denial or disqualification.

35 (2) That the individual has the right to a hearing to

1 challenge the licensing authority's decision.

2 (3) The earliest date the person may submit a new
3 application.

4 (4) That evidence of rehabilitation may be considered upon
5 reapplication.

6 b. A determination by a licensing authority that an
7 applicant's criminal conviction is specifically listed as a
8 disqualifying conviction and is directly related to the duties
9 and responsibilities of the profession or occupation must be
10 documented in written findings for each factor in paragraph "a"
11 sufficient for review by a court.

12 c. In any administrative or civil hearing authorized by
13 this section or chapter 17A, the licensing authority shall
14 carry the burden of proof on the question of whether the
15 applicant's criminal conviction directly relates to the duties
16 and responsibilities of the profession or occupation for which
17 the license is sought.

18 7. Each licensing authority shall adopt rules for the
19 implementation of this section.

20 Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection
21 3, shall not apply to this Act.

22 Sec. 5. APPLICABILITY. This Act applies to licensing
23 decisions made by a licensing authority on or after January 1,
24 2020.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill sets limitations on the ability of cities and
29 counties, referred to as "political subdivisions", to regulate
30 professions and occupations. The bill prohibits political
31 subdivisions from imposing any new licensing requirements or
32 professional or occupational fees beginning January 1, 2020.
33 Political subdivisions may continue to impose any existing
34 licensing requirements or fees prior to that date.

35 The bill also limits the ability of licensing authorities

1 to refuse to grant a license on the basis of an applicant's
2 criminal record by requiring licensing authorities to
3 specifically list the offenses that could disqualify an
4 applicant and to specifically detail the grounds for
5 disqualification of each applicant. A licensing authority
6 cannot disqualify an applicant for an arrest not followed by
7 a conviction or for a conviction that occurred more than five
8 years ago, provided that the offense was not violent or sexual
9 in nature, or based on a finding that an applicant lacks good
10 character or suffers from moral turpitude.

11 A disqualified person who commits an additional
12 disqualifying offense during the period of disqualification or
13 who is disqualified based on a violent or sexual crime may not
14 be disqualified for longer than five years following release
15 from incarceration. An applicant who is denied a license on
16 the basis of a criminal record is entitled to an administrative
17 review and any review in civil court permitted by Code chapter
18 17A. The licensing authority bears the burden of proof in such
19 proceedings. The bill also requires licensing authorities to
20 respond to inquiries as to whether an individual's criminal
21 record would disqualify the individual from obtaining a
22 license.

23 The bill may include a state mandate as defined in Code
24 section 25B.3. The bill makes inapplicable Code section 25B.2,
25 subsection 3, which would relieve a political subdivision from
26 complying with a state mandate if funding for the cost of
27 the state mandate is not provided or specified. Therefore,
28 political subdivisions are required to comply with any state
29 mandate included in the bill.

30 The bill applies to licensing decisions made on or after
31 January 1, 2020.